



## [Netherlands - Council of State \(Raad van State\), ECLI:NL:RVS:2012:BY1583](#)

The case concerns the prospect of deportation of a stateless Palestinian to Lebanon, and the justifiability of immigration detention. The Court ruled that because there is evidence that the Lebanese authorities are willing to issue laissez-passers to both documented and undocumented Palestinians, and the talks between the authorities of the Netherlands and Lebanon are pending, there is a prospect of deportation of the applicant, and the detention is therefore justified.

**Case name (in original language) :** ECLI:NL:RVS:2012:BY1583

**Case status:** Decided

**Case number:** ECLI:NL:RVS:2012:BY1583

**Date of decision:** 19/10/2012

**State:** Netherlands

**Court / UN Treaty Body:** Council of State of the Netherlands (Raad van State)

**Language(s) the decision is available in:** Dutch

**Applicant's country of birth:** Lebanon

**Applicant's country of residence:** Netherlands

**Key aspects:** Burden of proof, Country of return, Deportation and removal, Detention, Standard of proof

### **Facts**

The applicant is a stateless Palestinian, who arrived to the Netherlands from Lebanon with his family when he was 8 years old. In 2006 he was "declared undesirable" by the Dutch authorities. The "declaration of undesirability" has been lifted in 2010, but his residence in the Netherlands remained undocumented, and his legal obligation to leave the Netherlands continued. In May 2012 was put in an immigration detention centre, pending efforts towards his deportation to Lebanon. In June 2012 a lower instance court declared detention unjustified, and ordered to pay the applicant compensation for the time spent in detention. The authorities appealed that judgment to the Council of State.

## **Legal arguments by the applicant**

The applicant has argued that there is no prospect of his deportation to Lebanon within a reasonable period of time. To this end, he argued that [the authorities] have provided contradictory data regarding the total number of laissez passer issued by the Lebanese authorities. This is all the more important now that the pledges made by the Lebanese authorities in 2006 and 2010 did not lead to the actual issue of laissez passer, according to the foreign national.

## **Legal arguments by the opposing party**

The state authorities argued that there is a clear prospect to deport the applicant in the near future to Lebanon. To support this, they submitted that in 2010, 2011 and so far in 2012, laissez-passers were requested from the Lebanese authorities for 25 (stateless) Palestinians. In four cases laissez-passers were promised, involving both documented and undocumented foreign nationals. The fact that the laissez-passers were not actually issued is due to the fact that the whereabouts of the individuals concerned were no longer known to the authorities at the time the Lebanese authorities committed to issuing those documents. However, the Lebanese authorities do comply with a promise concerning those laissez-passers if the relevant individuals appear on the radar later in time, thus a laissez passer that was promised in 2010 to the IOM was issued in 2012. The authorities also submitted that high-level talks are taking place between the Dutch and Lebanese authorities concerning this issue, and agreements are being reached.

## **Decision & Reasoning**

The Court reasoned as follows:

"4.2. From the information provided by the [authorities], the factual accuracy of which has not been disputed by the applicant, it follows that the Lebanese authorities are prepared to issue laissez-passers to both documented and undocumented (stateless) Palestinians. Furthermore, the Minister is in regular dialogue with the Lebanese authorities at both (senior) official and operational levels, which underlines the willingness of those authorities to cooperate in the laissez-passer process. In this state of affairs, there is no ground for the opinion that the foreign national cannot be deported to Lebanon within a reasonable period of time."

## **Decision documents**

[RvS\\_19Oct2012.pdf](#)

## **Outcome**

The Council of State overruled an earlier judgment in favour of the applicant, and upheld the decision to detail the applicant pending his deportation to Lebanon.